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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,424	08/24/1999	JEFFRY LOVAN PHILYAW	PHYLY-24.733	5218

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EXAMINER

KUPSTAS, TOD A

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 04/23/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/382,424

Applicant(s)

PHILYAW ET AL.

Examiner

Tod Kupstas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/03 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Golden et al. (US 5,761,648).

As forth in claim 1, Golden et al. disclose a method of tracking network activity of a user, comprising the steps of: implementing a profile application on a computer of the user disposed on a network to track the network activity of the user, the profile application containing a unique ID and having a bar code distinct from the unique ID associated therewith; see col. 4, lines 8-26, see

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col. 5, lines 9-23 (the pin and unique serial number, the pin is assigned and a unique serial number is assigned that is separate from the PIN) entering user information of the user into the profile application; see col. 5, line 60-col. 6, line 6; accessing a vendor server on the network by the user to view server information; and logging activities of the user with an activity log generated on the computer of the user (usage history is maintained by the consumer) while the user accesses the vendor server for server information; see col. 5, lines 12-21 and 35-42 (This system logs and uses the profile information of the end user to keep track of the user).

As forth in claim 2, Golden et al. disclose a method wherein the profile information is transmitted to a registration server disposed on the network for storing, and the bar code and unique ID returned to the computer of the user in response to receiving the profile; see col. 5, lines 47-56.

As forth in claim 3, Golden et al. disclose a method wherein the vendor server transmits the activity log to the registration server in response to the user exiting the vendor server; see col. 5, lines 14-24.

As forth in claim 4, Golden et al. disclose a method wherein the activity log is appended to the user information stored on the registration server (part of the profile data-i.e. the system keeps track of coupons cashed, issued, etc.).

As forth in claim 5, Golden et al. disclose a method wherein the profile application contains the unique ID (the unique serial number) and the bar code; see col. 4, lines 9-26.

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As forth in claim 6, Golden et al. disclose a method wherein the profile application passes the unique ID and bar code to the vendor server when the user accesses the vendor server (the issuer uses this information to print the coupon).

As forth in claim 7, Golden et al. disclose a method wherein the vendor server accesses a registration server disposed on the network to obtain the user information stored thereon; see col. 5, lines 9-42.

As forth in claim 8, Golden et al. disclose a method wherein the vendor server presents advertising to the user based upon information extracted from the user information; (the vendor (issuer) compiles demographic information and other advertising material).

As forth in claim 9, Golden et al. disclose a method wherein the activity log is generated on the computer of the user and stored thereof (the end user contains a listing of coupons downloaded and used, etc.).

As forth in claim 10, Golden et al. disclose a system for tracking network activity of a user, comprising the steps of: a profile application implemented on a computer of the user disposed on a network to track the network activity of the user, the profile application containing a unique ID and having a bar code distinct from the unique ID associated therewith; see col. 4, lines 8-26, see col. 5, lines 9-23 (the pin and unique serial number, the pin is assigned and a unique serial number is assigned that is separate from the PIN)); user information of the user entered into the profile application; ; see col. 5, line 60-col. 6, line 6; a vendor server on the network accessed by the user to view server information; and an activity log generated on the

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computer of the user (usage history is maintained by the consumer) for logging activities of the user while the user accesses the vendor server for server information; see col. 5, lines 12-21 and 35-42 (This system logs and uses the profile information of the end user to keep track of the user).

As forth in claim 11, Golden et al. disclose a system wherein the profile information is transmitted to a registration server disposed on the network for storing, and the bar code and unique ID (serial number) returned to the computer of the user in response to receiving the profile; see col. 4, lines 8-26, and col. 5, lines 47-56.

As forth in claim 12, Golden et al. disclose a system wherein said vendor server transmits the activity log to the registration server in response to the user exiting the vendor server; see col. 5, lines 14-24.

As forth in claim 13, Golden et al. disclose a system wherein the activity log is appended to the user information stored on the registration server (part of the profile data-i.e. the system keeps track of coupons cashed, issued, etc.).

As forth in claim 14, Golden et al. disclose a system wherein the profile application contains the unique ID (serial number) and bar code; see col. 4, lines 9-26.

As forth in claim 15, Golden et al. disclose a system wherein the profile application passes the unique ID and bar code to the vendor server when the user accesses the vendor server (the issuer uses this information to print the coupon).

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As forth in claim 16, Golden et al. disclose a system wherein the vendor server accesses a registration server disposed on the network to obtain the user information stored thereon; see col. 5, lines 9-42.

As forth in claim 17, Golden et al. disclose a system wherein the vendor server presents advertising to the user based upon information extracted from the user information (the vendor (issuer) compiles demographic information and other advertising material).

As forth in claim 18, Golden et al. disclose a system wherein the activity log is generated on the computer of the user and stored thereon (the end user contains a listing of coupons downloaded and used, etc.).

Response to Arguments

4. Applicant's arguments filed 3/17/2003 have been fully considered but they are not persuasive.

Applicant argues that the limitation of "tracking the network activity of a user wherein the method is performed and the system is located *at the user's computer location*." The Examiner disagrees, first noting that usage history 20, can be accessed by the system. This history contains information about which services have been used by the consumer. This information is maintained at the user's system. Applicant further states that the profile information does not have anything to do with "*the network activity* of the user." The Examiner disagrees noting that the profile information maintained by Golden is used in identifying the network activity of the user.

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Applicant additionally maintains that there are no tracking services in Golden. Again the Examiner must point to the where the usage history is accessed. In order to access usage history, the usage had to be tracked by the user. Although, the Applicant makes reference to the term “tracking” in its ordinary usage, the Examiner must read the term “tracking” as it is used by one of ordinary skill in the art. In so doing, the Examiner maintains the position that Golden is tracking usage in the system. Although, “updating” and “accessing” do not have the same sense as “tracking”, this is merely a difference of perspective in the system related to the time of referencing the activity being performed (for example, “updating” and “tracking” are almost synonymous, in the sense that while one is tracking an event, the user log will be updated to record the data, later on this data can be accessed).

Regarding the arguments in response to the PIN and the barcode. The Examiner points to col. 4, lines 16-21, there it states that there is a unique serial number, and a barcode, the unique serial number corresponds to the unique ID used in the claims.

The Examiner therefore maintains that the limitations of the claims are met by Golden.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Cheng et al. (US 6,542,943) discloses a system, method, and computer program product for automatically updating software on a client computer system.

Olah et al. (US 6,446,119) discloses a system and method for monitoring computer usage.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tod Kupstas whose telephone number is (703) 305-2655.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached at (703) 305-4792. The fax phone number for this art unit is (703) 308-7201. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology center receptionist whose telephone number is (703) 305-3900.

Tod Kupstas


4/15/03